



November 1, 1999

Mr. Nick Todaro  
Assistant City Attorney  
City of Midland  
P. O. Box 1152  
Midland, Texas 79702-1152

OR99-3069

Dear Mr. Todaro:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130487.

The City of Midland Police Department (the "department") received a request for "a copy of the police report(s) on an incident that occurred Friday evening, October 1, 1999 at approximately 10:30 p.m. [at] Lockheed." You have provided the information responsive to the request, marked as Exhibits "B" and "C." You first assert the requested information must be withheld under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. You further assert that the requested information is excepted from public disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. We have previously found that section 58.007 of the Family Code does not make confidential juvenile law enforcement records concerning juvenile conduct occurring on or after January 1, 1996, that are maintained by law enforcement agencies. Open Records Decision No. 644 (1996). However, the Seventy-fifth Legislature passed House Bill 1550 which amends the Family Code and in part overrules Open Records Decision No. 644 (1996). Act of June 2, 1997, H.B. 1550, 75th Leg., R.S., ch. 1086, § 20, 1997 Tex. Gen. Laws 4179, 4187. Juvenile offender records held by law enforcement agencies are now expressly confidential under section 58.007(c) of the Family

Code. Notwithstanding, section 58.007(c) only applies to juvenile law enforcement records concerning conduct that occurred on or after September 1, 1997. The relevant language of section 58.007(c), as amended by the Seventy-sixth Legislature,<sup>1</sup> reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Open Records Decision No. 644 (1996) continues to apply to records concerning juvenile conduct that occurred from January 1, 1996 to August 31, 1997. Section 58.007(c) of the Family Code only applies to juvenile law enforcement records concerning juvenile conduct occurring on or after September 1, 1997, that are maintained by law enforcement agencies. Juvenile law enforcement records concerning conduct that occurred before January 1, 1996, are governed by former section 51.14(d) of the Family Code, which is continued in effect for that purpose. Act of June 2, 1997, H.B. 1550, 75<sup>th</sup> Leg., R.S., ch. 1086, § 53, 1997 Tex. Gen. Laws 4179, 4199.

Here, our review of the documents indicate the requested information involves juvenile conduct that occurred after September 1, 1997. All the reviewed documents arise from a single incident in which a juvenile was involved. It does not appear that any of the exceptions to section 58.007 applies. Thus, the records are made confidential by amended section 58.007 of the Family Code. Accordingly, you must withhold the requested information in its entirety under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

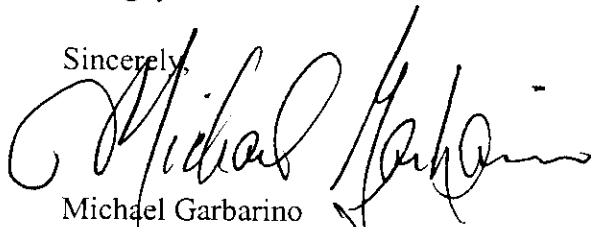
Because we make a determination under section 552.101, we do not address your additional arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon

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<sup>1</sup>Act of May 26, 1999, 76<sup>th</sup> Leg., R.S., ch. 815, §1, 1999 Tex. Sess. Law Serv. 3448 (Vernon) (to be codified as an amendment to Fam. Code § 58.007).

as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Garbarino  
Assistant Attorney General  
Open Records Division

MG/jc

Ref: ID# 130565

Enclosures: Submitted documents

cc: Ms. Danella Cockrell  
1801 Buffalo Avenue  
Odessa, Texas 79762  
(w/o enclosures)